

Patent  
Serial No. 09/750,833  
Agilent Docket No. 10010039-1

## **REMARKS**

### ***Remaining Claims***

Eighteen (18) claims (Claims 1, 2, 4 – 12 and 14 - 20) remain pending in this application through this Amendment. Claims 1, 2, 4, 11, 12 and 14 have been amended by the amendment being filed herewith. As explained in more detail below, the Applicants respectfully request reconsideration and that the amendment being filed herewith be entered.

### ***Double Patenting***

The Examiner has provisionally rejected claims 1 – 20 under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 20 of copending application Serial No 10/117,471. The Applicants respectfully traverse the rejection. Nevertheless, a terminal disclaimer is being submitted herewith to overcome the provisional rejection. Accordingly, the Applicants respectfully request that the rejection be withdrawn.

### ***Rejection of Claims 1 – 10 and 11 – 20 under 35 USC §102(b) or, in the alternative, under 35 USC §103(a) - VAN HOEK***

Claims 1 – 20 have been rejected by the Examiner under 35 USC §102(b) as being anticipated by or, in the alternative, under 35 USC §103(a) as obvious over Van Hoek (Article "Logistics and virtual...information", 1998). The applicants respectfully traverse the rejection.

Van Hoek describes outsourcing of product manufacturing and distribution to a virtually-integrated supply chain and the effects of applying postponement of operations along the supply chain to delay activities associated with the supply, manufacturing and distribution until actual customer orders have been received. Van Hoek also describes virtual integration of information flow to control activities along the supply chain.

The virtually-integrated supply chain disclosed in Van Hoek has a single manufacturer and a single distributor. Van Hoek describes using information flow

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and postponement of activities to customize and improve the efficiency of supplying components to a single manufacturer, moving the manufactured product to a single distributor and distributing the final product to the end user. Postponement is applied as needed to delay supplying components to the manufacturer and/or moving the manufactured product to the distributor until customer demand or orders are sufficiently great. Nowhere in Van Hoek is there any mention of a manufacturer alliance comprising a plurality of manufacturer alliance members, nor is there any mention of a distributor alliance comprising a plurality of distributor alliance members.

In contrast, in accordance with the present invention, the virtual business model typically includes multiple manufacturer alliance members and multiple distributor alliance members. Virtual flows are used to control the flow of information between different members of the same alliance and/or between different alliances. This ensures that "the movement of materials and product, information, and financial triggers between all alliances of the supply chain occur at the most efficient and effective times. This allows a contracting business to select suppliers world wide, connect them to the virtual business model, and run their business in a virtual mode." (Page 7 of the specification of the present application, lines 1 – 6).

This feature of the invention is neither taught nor suggested by Van Hoek. Both of the independent claims in the present application, namely claims 1 and 11, recite "a computer-implemented virtual manufacturer alliance comprising a plurality of manufacturer alliance members, every member of said manufacturer virtual alliance being configured to perform operations associated with manufacturing of said product" and "a computer-implemented virtual distributor alliance comprising a plurality of virtual distributor alliance members, every virtual distributor alliance member being configured to perform operations associated with distribution of the manufactured product". For at least the reason that Van Hoek does not disclose the above-quoted claim elements, either implicitly or explicitly, the Applicants respectfully submit that claims 1 and 11 are not

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anticipated by Van Hoek and request that the rejection under 35 U.S.C. §102(b) be withdrawn.

Independent claims 1 and 11 are nonobvious over Van Hoek. There is no suggestion in Van Hoek of creating an alliance among a plurality of manufacturers or creating an alliance among a plurality of distributors. This is because Van Hoek is directed to describing a virtually-integrated supply chain in which each participant performs operations that are different from those performed by any other participant. Nowhere is there any mention in Van Hoek of, for example, two manufacturers that manufacture the same component. In describing the Smart car example, Van Hoek states "[t]he car consists of five main modules; the platform, the powertrain, the doors and roof, the electronics and the cockpit, containing sub-modules and components. The modules are supplied in sequence for final assembly by a small number of first tier suppliers of which seven are fully integrated into the final assembly plant."

Therefore, it would not have been obvious in view of Van Hoek to create a virtual business model that includes "a manufacturer alliance comprising a plurality of manufacturer alliance members, every member of said manufacturer virtual alliance being configured to perform operations associated with manufacturing of said product", or that includes "a computer-implemented virtual distributor alliance comprising a plurality of virtual distributor alliance members, every virtual distributor alliance member being configured to perform operations associated with distribution of the manufactured product", as recited in independent claims 1 and 11. Accordingly, the Applicants respectfully request that the rejection of independent claims 1 and 11 under 35 U.S.C. §103(a) be withdrawn.

Because dependent claims 2, 4, 10, 12 and 14 – 20 depend either directly or indirectly from independent claims 1 or 11, and thus incorporate the elements recited in those claims, the Applicants respectfully request that the rejection of the dependent claims also be withdrawn.

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***Rejection of Claims 7 – 10 and 17 – 20 under 35 USC §103(a) - VAN HOEK and Lewis***

Claims 7 – 10 and 17 – 20 are rejected (2<sup>nd</sup> time) under 35 USC §103(a) as being unpatentable over VAN HOEK as applied to claims 1 – 10 and 11 – 20 above, and further in view of LEWIS et al. (Article "Logistics and Information Technology: A Coordination Perspective", 1997). The Applicants respectfully traverse the rejection.

For at least the reason that claims 7 – 10 and 17 – 20 depend either directly or indirectly from independent claims 1 or 11, the Applicants respectfully submit that claims 7 – 10 and 17 – 20 are patentable over Van Hoek in view of Lewis for the reasons described above with reference to independent claims 1 and 11. Accordingly, the Applicants respectfully request that this rejection be withdrawn.

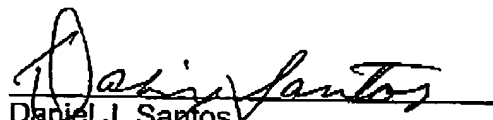
It should be noted that Lewis et al. also does not disclose "a manufacturer alliance comprising a plurality of manufacturer alliance members, every member of said manufacturer virtual alliance being configured to perform operations associated with manufacturing of said product", or that includes "a computer-implemented virtual distributor alliance comprising a plurality of virtual distributor alliance members, every virtual distributor alliance member being configured to perform operations associated with distribution of the manufactured product", as recited in independent claims 1 and 11. For this additional reason, the Applicants respectfully submit that claims 1, 2, 4 – 12 and 14 – 20 are patentable over Van Hoek in view of Lewis, and request that the rejection be withdrawn.

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### CONCLUSION

For the reasons set forth above, it is respectfully submitted that all pending claims are now in condition for allowance, and Applicant requests a Notice of Allowance be issued in this case. Should there be any further questions or concerns, the Examiner is urged to telephone the undersigned to expedite prosecution.

Respectfully submitted,  
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